IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.1269 of 1994

DATE OF DECISION:09.05.2007

State of Punjab through Collector, Bhatinda .....Petitioner

Versus

Virpal & Ors. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Lekh Raj Sharma, Addl. A.G., Punjab.

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State of Punjab has filed this revision petition for setting aside the order dated 27.8.1993 passed by Additional District Judge, Bhatinda, whereby, the appeal filed by the respondents against the order dated 16.7.1990 passed by the Collector, Bhatinda, was accepted.

The brief facts of the case are that respondents No.1 to 3 sold land measuring 3 kanals situated at village Phus Mandi to one Chhaggar Singh vide registered sale deed dated 25.1.1990 for a consideration of Rs. 12,000/-. After three months of the sale deed, one Gulzar Singh made a complaint dated 19.3.1990 to the District Collector alleging therein that the said sale deed was got registered by mentioning less consideration in order to avoid stamp duty. It was stated in the complaint that actually the land was sold for Rs. 1 lac but it was got registered only for Rs.12,000/-. After notice, the collector held that the value of the land should not have been less than Rs.37,500/-, therefore, it was ordered that the respondents were liable to pay the stamp duty on the balance amount of Rs.25,500/-, which comes to Rs. 3187.50/-. Accordingly the respondents were directed to make the said deficiency good within a period of 30 days.

The respondents challenged the said order by filing statutory

appeal under the Indian Stamp Act, 1899 (for short 'the Act') before the Additional District Judge, Bhatinda. After hearing counsel for the parties, the appellate authority set aside the order passed by the Collector while holding that after registration of the sale deed, the registering authority became functus officio and as such it has no power under Section 33 of the Act to impound the document. It was observed in the Act that there is no provision empowering the registering officer to examine whether an instrument already registered was or was not duly stamped and to impound it. It was held that in this case the sale deed was duly executed by the registering authority and subsequently on a complaint made by somebody the matter was reopened and it was ordered that the stamp duty was fixed by giving undervalue of the sale consideration. In this case, the sale deed was not impounded either by the Collector himself or by any other officer so the demand of any stamp duty is illegal as the Collector is not empowered to raise such demand under the Act.

During the course of arguments, counsel for the petitioner could not point out any illegality in the order passed by the appellate authority. Even otherwise, I am of the view that without there being any evidence and material, the collector had increased the value of the sale deed to Rs. 37,500/-. The said assessment was wholly based on conjectures, therefore, I do not find any ground to interfere in the impugned order passed by the appellate authority.

Dismissed.

May 09, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**